

### **REMARKS / ARGUMENTS**

Claims 1, 3-5, 8-15 and 41-45 remain pending in this application. Claims 2, 6-7 and 16-40 have been canceled without prejudice or disclaimer. New claims 41-45 have been added.

#### **Priority**

Applicants appreciate the Examiner's acknowledgment of the claim for priority and safe receipt of the priority document.

#### **Claim Objections**

The claims have been amended to overcome the Examiner's objections.

#### **Interview**

Applicants wish to thank the Examiner for conducting an interview with the undersigned and Applicants' representative on January 18, 2006. It was agreed that the proposed amendments overcome the art of record. The claims are now being amended as in the proposed amendment that was discussed during the interview.

**35 U.S.C. § 103**

Claims 1-8, 10-18, 28 and 29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Nakano et al (U.S. Pub. No. 2003/0051111) and Wahl et al (U.S. Patent No. 6,324,654). Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Nakano et al and Wahl et al as applied to claim 8 and further in view of Kern et al (U.S. Patent No. 5,734,818). These rejections are traversed as follows.

The present invention is directed to a data processing system having a first storage system, a second storage system to which data that is received by the first storage system is synchronously transmitted and a third storage system to which data that is received by the first storage system is asynchronously transmitted. The second storage system has update information relating to the write order of data sent from the first storage system. In the event of a failure at the first storage system, the data and update information is stored in the second storage system so that it can be sent to the third storage system.

As discussed and agreed to in the interview, the amended claims overcome the outstanding rejections. Nakano et al do not disclose a second storage system that stores data and update information in the manner claimed. The same is true for the other cited references. For example, Wahl et al merely discloses that a primary system has a log and that data is transferred from the primary system to a secondary system. Kern et al are also silent about the presently claimed features as recited


above. Indeed the Examiner has merely relied upon Kern et al for their discussion of reading information at particular intervals.

**Conclusion**

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

By   
Shrinath Malur  
Reg. No. 34,663  
(703) 684-1120